IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER No. 581 of 2006

Smt.Babita w/o Pandurang Ranpise .. Appellant

versus

Anil Suryabhan Tembre & Ors. .. Respondents

...

Mr.S.K. Chaurasia i/b A.M. Saraogi for appellant.

Mr.S.S. Redekar for respondent no.1.

Mr.A.v. Khanolkar for respondent no.3.

Mr.Abhijeet Wagh for respondent no.5.

CORAM : D.G. KARNIK, J

DATED : 4th October 2006

P.C.:

1. Heard learned counsel for the appellant.

2. This appeal is directed against an order dated 20th July 2006 passed by City Civil Court declining to grant ad-interim injunction pending the hearing of the motion.

3. The appeal is directed against ad-interim order declining to grant injunction and no interference is called for at this stage. Learned Judge has noted that the plaintiff was not in possession of the suit premises on the date of the suit and had so admitted in the plaint. In the circumstances, the trial court was of the prima facie view that no prima facie case was made out for grant of ad-interim relief and has declined to grant it.

4. I see no reason to interfere in the discretion exercised by the trial court in refusing to grant ad-interim relief in view of the fact that plaintiff in the plaint has admitted that he is not in possession of the premises. Since the motion has not been finally disposed of, the appellant is at liberty to pursue the motion by adducing appropriate evidence. It is clarified that the observations herein are based on prima facie scrutiny and the trial court would hear the motion without in any way influenced by them.

5. The appeal is dismissed summarily.

(D.G. KARNIK, J)